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TO

Amend the Laws relating to the Fisheries of Ireland. A.D. 1889.

WHEREAS it is expedient to amend the laws relating to the fisheries of Ireland :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act shall not apply to England or Scotland.

*Application
of Act.*

2. This Act may be cited for all purposes as the Fisheries Act (Ireland), 1889, and shall be construed together with the Salmon Fisheries Act now in force in Ireland and be incorporated therewith.

Title of Act.

3. From on and after the *passing of this Act* it shall be illegal to take salmon, pollen, or trout of less size than eight inches in length measured from the nose to the utmost extent of the tail, and any person wilfully taking, killing, destroying, buying, selling, or exposing for sale, sending, or having in his custody or possession any salmon, pollen, or trout of less size than that herein-before mentioned shall forfeit *one shilling* for every such fish so taken, killed, destroyed, bought, sold, exposed for sale, sent, or in his possession or custody, together with the forfeiture of all such fish; and all persons empowered to enforce the provisions of the said Salmon Fishery Acts shall be and are hereby empowered to seize all such pollen, salmon, or trout: Provided always, that nothing herein contained shall be construed to render liable to any of the above penalties any person who shall prove, to the satisfaction of the justice or justices before whom he may be charged of any of the above offences in respect of trout, that any such trout of a less size than eight inches were taken by rod or line.

*Taking of
undersized
salmon,
pollen, or
trout illegal.*

[Bill 91.]

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Exception of
pollen excepted
kept for certain
purposes.

Constabulary,
water bailiffs,
and others
empowered
to open and
examine
baskets
and boxes.

Constabulary,
water bailiffs,
and others
empowered
to stop and
search boats
on salmon
rivers.

4. Nothing in this Act contained shall apply to any person who shall catch or attempt to catch or shall have in his possession such pollen for scientific purposes.

5. It shall be lawful for all officers and men of the constabulary and for all persons empowered to enforce the provisions of the 5 Salmon Fishery Acts, to open and examine all baskets and boxes and other packages containing fish, whether at railway stations, docks or quays, markets, stores, fishing places, or any other places whatsoever for the purposes of enforcing the provisions of this Act and of the said Acts: Provided that none of the parties hereby 10 authorised to open and examine such baskets, boxes, and other packages shall be liable for any damage caused by such opening and examining, unless the same shall be done wantonly and maliciously.

6. All officers and men of the constabulary, and any inspectors, 15 water bailiffs, or other officers appointed under the said Acts, acting within the limits of his district, may do all or any of the following things in addition to all other powers or duties conferred on him by the said Acts or this Act (that is to say):—

(1.) Stop and search on any (salmon) river, lake, or estuary or 20 part of the sea coast, any boat, barge, corach, or other vessel used in fishing, or which there is reasonable cause to suspect contains any salmon, trout, or pollen, and seize any fish instrument of fishing or other articles forfeited in pursuance of the said Acts or this Act; and any person refusing to allow 25 any such boat, barge, corach, or other vessel to be stopped and searched, or resisting or obstructing any such inspector, water bailiff, or other officer in any such search, shall for every such offence be liable to a penalty not exceeding *five pounds* and not less than *two pounds*; 30

(2.) Search and examine all nets, baskets, bags, hampers, boxes, or other instruments used in fishing or in carrying fish by persons whom there is reasonable cause to suspect of having possession of fish illegally caught. Seize all fish and other articles forfeited in pursuance of the said Acts or this Act. 35 Any person refusing to allow any nets, baskets, bags, hampers, boxes, or other instruments used in fishing or in carrying fish to be searched or examined, or resisting or obstructing any such inspector, water bailiff, or other officer in any such search or examination, shall for every such offence be liable 40 to a penalty not exceeding *five pounds* and not less than *two pounds*.

7. The production by the water bailiffs or other officer of the instrument of his appointment, executed in the manner prescribed by this Act, shall be a sufficient warrant for any water bailiff or other officer exercising the authorities given to him under the said Acts or this Act.

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Water-bailiff's warrant sufficient authority.

8. All appointments by any board of conservators made in pursuance of the said Acts of any treasurer, clerk, inspector, water bailiffs, or other officer shall be prepared and printed in such form as the said inspectors of Irish fisheries shall prescribe, or from time to time think necessary to adopt; and shall be stamped with the seal of such board, and signed by not less than three members thereof. And in all cases where it shall hereafter become necessary to prove any such appointment in any court of law or justice, or elsewhere, the production of such appointment purporting to be sealed with the seal of such board shall be deemed and taken as full and sufficient evidence of such appointment.

Proof of validity of warrant.

9. It shall be lawful for boards of conservators of districts from time to time as shall seem to them expedient, but subject to the approval of the said inspectors, to fix and determine the scale of license duty payable for each net for the capture of salmon, trout, pollen, or eels (and for lines used for the capture of eels), said license duty to be in proportion to the length of said net and to its capabilities of capture, and the said boards are authorised and empowered to issue annually, in manner in said Acts provided with respect to licenses, at a charge not exceeding *three pence* per label, zinc or other labels to be attached to each net licensed for the capture of salmon, trout, pollen, or eels, and to each line licensed for the capture of eels, each label showing in figures the length of the net to which same is to be attached and the description thereof, together with the amount of the license duty that has been previously paid therefor, and the number of the year for which same is issued, and the name or number describing the district in which such net or line shall be authorised to be used, such labels to be only good and valid for the year, district, and purpose for which the same shall be issued and for no other, and if any person shall use any net or line for the capture of salmon, trout, pollen, or eels without the same having duly attached thereto such a label as aforesaid, such person shall be liable to a penalty of not less than *two pounds* and not more than *ten pounds*, together with forfeiture of the nets or lines so used, and if any person shall use any such label for any other year, district, net, or purpose, or in any manner alter or fraudulently counterfeit the same, he shall be

Conservators empowered to issue labels and fix license duty upon nets for capture of salmon, trout, pollen, eels, and red lines.

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liable to a penalty of not less than *five pounds* and not more than *twenty pounds*. Provided always, that this section shall not alter the license duty fixed or payable under the said Acts for stake nets or nets used in the eyes or gape in any river which shall remain in force as if this Act had not passed.

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Inspectors
empowered
to fix and
alter close
season for
angling of
trout.

Definition
of word un-
seasonable in
5 & 6 Vict.
c. 106, s. 74.

Penalty for
any person
having in
possession
salmon
caught in
close season.

10. The said inspectors shall, as regards the altering of the close season for angling for trout, have all and the like powers and authorities which by the said Acts are vested in them in relation to the altering of the season for angling for salmon.

11. The word unseasonable in section seventy-four of the Act of 10 the session of the fifth and sixth years of the reign of Her present Majesty, chapter one hundred and six, shall include keepers, kippers, mended relts, and salmon by whatever local name known which are returning to the sea after spawning.

12. No person shall have in his possession, or buy, sell, or expose 15 for sale, any salmon or part of any salmon in any town or place during the close season for salmon, for the river or lake or part of the sea coast nearest to such town or place, and any person acting in contravention of this section shall forfeit any salmon or part of any salmon so found in his possession, or bought, sold, or exposed 20 for sale, and shall incur a penalty not less than *two pounds* and not exceeding *ten pounds* for every such salmon or part of any salmon. But nothing herein contained shall apply to any person having in his possession, or buying, selling, or exposing for sale, any salmon which has been caught, salted, pickled, or dried beyond the limits 25 of the United Kingdom, or if in England or Scotland, then between the *first day of February* and the *third day of November*, or if in Ireland then during the open season for salmon for the river, lake, or part of the sea coast where same was taken, or any clean, fresh salmon caught beyond the limits of the United Kingdom, or caught 30 within the limits of the United Kingdom, at a time when and in a place where the capture of same was lawful, but the burden of proving that any clean, fresh salmon so found in possession, or bought, sold, or exposed for sale, was captured abroad or lawfully captured within the United Kingdom, shall shall lie on the person having in his 35 possession, or buying, selling or exposing for sale, any such salmon or part thereof, and the burthen of proving that any cured, salted, or pickled salmon was cured, salted, pickled, or dried elsewhere than the United Kingdom, or if in England or Scotland, then between the *first day of February* and the *third day of November* in any 40 year, or if in Ireland then during the open season for salmon for the river, lake, or part of the sea coast where same was taken, shall lie

upon the person having in his possession, or selling or exposing for sale, any such salmon or part thereof.

A.D. 1869.

13. Whereas by the said Act of the fifth and sixth years of Her present Majesty's reign, in the section numbered thirty-six, it is provided that if during the close season for salmon for any river, lake, estuary, or any part of the sea coast, any person shall wilfully take or fish for, or aid or assist in taking or fishing for, any salmon or trout therein or therefrom, such person shall forfeit and pay any sum not exceeding *ten pounds* for every such offence, and shall also forfeit every fish so taken, and every net or engine by which the same may have been taken; and whereas it is expedient that a substantial minimum penalty should be specified for such offences, he it therefore enacted, that any person who shall commit any of the said offences shall (in addition to the forfeitures imposed) forfeit and pay a sum not exceeding the sum specified in the said section and not less than *five pounds*.

Minimum penalty for fishing in close season.

14. There shall be repealed so much of the forty-first section of the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter ninety-two, as provided that the penalty for the offences therein mentioned shall be not less than *ten shillings* nor more than *five pounds*, and in lieu thereof be it enacted, that every person who shall commit any of the offences in the said section specified shall pay a sum not less than *five pounds* and not more than *twenty pounds*, together with forfeiture of the engine used.

Alteration of penalty imposed by 11 & 12 Vict. c. 52. s. 41.

15. Sections sixty-five and seventy-eight of the Act of the session of the fifth and sixth years of the reign of Her present Majesty, chapter one hundred and six, and section forty of the Act of the session of the thirteenth and fourteenth years of the reign of Her present Majesty, chapter eighty-eight, are hereby repealed, and in lieu thereof be it enacted, that if any person shall have or use in any fresh waters, river, or lake, or on the banks thereof, at any season of the year, for the purposes of or with the intent of taking salmon or other fish, any light or fire of any kind, or any spear (except eel spears), otter, lyster, stroke haul, dredge draw, or gaff (except when the latter implement is used solely as auxiliary to angling legally with rod and line, or for the purposes of removing fish from any legal weir or box by the owner or occupiers thereof), or any net (except a lawful net had or used by the owner of a several fishery or his licenser within the limits thereof), or if any person shall be found at any time chasing, injuring, or disturbing spawning fish or fish in the

Repeal of 5 & 6 Vict. c. 106, ss. 65 and 78, and 13 & 14 Vict. c. 88, s. 40. Penalty for having or using lights, otters, gaffs, lysters, &c. at any time in inland rivers.

A.D. 1889. spawning beds, or attempting to catch fish in such places (except with rod and flies only within the lawful period), or damming or tearing or emptying any weir or mill race for the purpose of taking or destroying any salmon or trout, or the fry thereof, every person so offending in any of the cases aforesaid shall 5 forfeit all such instruments and implements, and shall forfeit and pay any sum not exceeding *ten pounds* and not less than *four pounds*.

License duty for angling for trout in salmon rivers.

16. Rods used for taking trout in rivers and lakes frequented by salmon shall be subject to a license duty of not more than *one* 10 *pound* nor less than *ten shillings* to be fixed by such board of conservators, and all the provisions in said Acts contained with respect to licenses for angling for salmon shall be applicable to licenses for rods used for taking trout as aforesaid.

5 & 6 Vict. c. 106, s. 80, repealed. Penalty for allowing poisonous matters to flow into salmon rivers.

17. Section eighty of the said Act of the session of the fifth and 15 sixth years of the reign of Her present Majesty, chapter one hundred and six, is hereby repealed, and in lieu thereof be it enacted, that no person shall steep in or throw into any lake or rivers frequented by salmon, trout, or poken, any flax, hemp, lime, spurge, or other deleterious or poisonous matter, or shall throw, empty, or cause or 20 allow or permit to run or flow into any such lake or river or any tributary thereof, any dyestuff, flaxwater, or other deleterious or poisonous liquid, and if any person shall so offend he shall forfeit and pay for every such offence a sum not exceeding *ten pounds* and not less than *ten shillings*, and in case of flaxwater being allowed 25 to flow into any such rivers or lake, and the person who caused or allowed such to take place cannot be found, then the occupier of the land shall be deemed to be the person who committed such offence and shall be liable to the penalty aforesaid; and any person throwing into or using in any such lake or river or tributary 30 thereof or any estuary of the sea, or having in his possession near any such lake, river, tributary, or estuary, dynamite or other explosive compounds with intent to catch or destroy salmon or other fish, shall be subject to a penalty of not more than *twenty pounds* and not less than *ten pounds*. 35

Penalty for having or using dynamite.

Original certificate of inspectors for fixed engine evidence, same was legally erected in 1862.

18. On any application to the said inspectors for a transfer or renewal of a certificate for any fixed engine for which a certificate shall have been granted by them, or by the Special Commissioners for Irish Fisheries under the provisions of the Salmon Fishery (Ireland) Act, 1863, the original certificate produced from the 40 office of the said inspectors shall be conclusive evidence that such fixed engine was legally erected for catching salmon during the

open season of one thousand eight hundred and sixty-two, and that all the provisions of the Act five and six Victoria, chapter one hundred and six, in regard to such fixed engine have been complied with.

A.D. 1862.

- 5 19. Where a certificate has been granted by the Special Commissioners for Irish Fisheries, or by the said inspectors, for any fixed engine erected in pursuance of the provisions of the nineteenth section of the Act of the session of the fifth and sixth years of the reign of Her present Majesty, chapter one hundred and six,
10 the right to erect and use such fixed engine, may from henceforth be exercised by any person holding same under a valid grant for any term or interest whatsoever, and the possession and occupation by such person of the land adjoining the shore to which such fixed engine is attached, shall not be deemed necessary for the legal use
15 of such fixed engine anything in the said Act, or the said Acts, to the contrary notwithstanding.

Certificate of fixed engine erected under 5 & 6 Vict. c. 18, shall be conclusive evidence of the right of any person holding under a valid grant for any term (without being in the occupation of land adjoining the shore) to use such engine.

20. Any person who has been convicted or shall hereafter be convicted of illegal fishing shall, in consequence of such conviction, be disqualified from ever being elected a conservator of fisheries.

Persons disqualified for election as conservators.

21. It shall be illegal for any person to go into any river with poles or anything else to drive fish back into the net, or to prevent them going into the sea; and every person so offending shall be liable to a penalty not exceeding five pounds.

Penalty for driving fish into nets, or preventing them going into sea.

22. All officers and men of the constabulary, and all other officers and persons appointed to carry out and enforce the provisions of the Salmon Fisheries Act, now in force, shall also be empowered to carry out and enforce the provisions of this Act, and the Fishery Acts now in force.

Constabulary and other officers to carry out and enforce this Act, and Fishery Acts now in force.

23. All penalties imposed by this Act shall be recovered and applied in manner in which penalties under the said Acts are recoverable and applicable.

Recovery of penalties.

24. This Act may be amended or repealed by any Act to be passed in the present session of Parliament.

Act may be amended in present session.

